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May 10, 2001

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Mr. Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102

**RE: Case No. TA-99-47**

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of the **STAFF FILING IN RESPONSE TO COMMISSION ORDER**.

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

Marc D. Poston  
Senior Counsel  
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MP/lb  
Enclosure  
cc: Counsel of Record

**FILED**

**MAY 10 2001**

**Missouri Public  
Service Commission**

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED

MAY 10 2001

Missouri Public  
Service Commission

In the Matter of the Application of )  
Southwestern Bell Communications )  
Services, Inc. d/b/a Southwestern Bell )  
Long Distance for a Certificate of Service )  
Authority to Provide Interexchange )  
Telecommunications Services Within the )  
State of Missouri. )

Case No. TA-99-47

**STAFF FILING IN RESPONSE TO COMMISSION ORDER**

Comes now the Staff of the Missouri Public Service Commission ("Staff") and for its filing in response to the Commission's Order Directing Filing issued May 2, 2001, states as follows:

1. Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance (SBLD) filed its application with the Commission in this case seeking authority to provide interexchange telecommunications services in Missouri on August 4, 1998. On January 12, 1999, the Commission issued a stay in this case until the issuance of the Commission's recommendation to the Federal Communications Commission for approval of SBC's application for in-region interLATA service "or until otherwise ordered."

2. Prior to the Commission's stay of this case, the Commission granted the intervention requests of the Mid-Missouri Group (now under the new name of the Missouri Independent Telephone Group or "MITG" which consists of the former Mid-Missouri Group companies and Peace Valley Telephone Company), Sprint Communications Company, L.P., MCI Telecommunications Corporation, McLeodUSA Telecommunications Services, Inc., AT&T Communications of the Southwest, Inc., CompTel-Mo, and Digital Teleport, Inc.

Participation without intervention was granted to Fidelity Telephone Company and the Small Telephone Company Group.

3. On March 7, 2001, SBLD filed its First Amended Application and revised tariff (MO PSC Nos. 1 and 2). Also, on March 7, 2001, Southwestern Bell Communications, Inc. filed a second application to provide interexchange telecommunications service, this one under the fictitious name of "SBC Long Distance." That application was assigned Case No. TA-2001-475, and is captioned *In the Matter of the Application of Southwestern Bell Communications Services, Inc. d/b/a SBC Long Distance for a Certificate of Service Authority to Provide Interexchange Telecommunications Services Within the State of Missouri and to Classify Said Services and the Company as Competitive.*

4. On March 19, 2001, the MITG filed a Motion to Suspend the tariff. MITG asserts that the Applicant could both originate and terminate traffic in MITG's exchanges and that MITG has an interest in assuring that the Applicant's traffic "is originated, transported, and terminated on FGD [(Feature Group D)] facilities utilizing FGD protocols, record creation, record exchange and intercompany compensation business relationship structures."

5. On April 27, 2001, the MITG filed a second motion to suspend and/or reject the tariff. They raise the issue of geographic deaveraging citing to Case No. TT-2000-22 and the Cole County Circuit Court case on review of that decision in Case No. 00CV324464. The Circuit Court held that AT&T's Overlay Plan, which offered a calling plan with reduced rates to subscribers in Southwestern Bell Telephone Company exchanges but not elsewhere, violates the federal prohibition against geographic deaveraging of interexchange rates found at 47 U.S.C. § 254(g).

6. On May 1, 2001 the Commission issued its order directing the Staff to make a recommendation on each of the requests for intervention and motions for suspension no later than May 10, 2001. The Commission granted all requests for Intervention (see paragraph 2 above) in its September 9, 1998 *Order Granting Interventions and Setting Early Prehearing Conference*. No requests for Intervention are awaiting a Commission decision in this case.

7. SBLD filed responses to MITG's motions to suspend on March 26, 2001 and May 7, 2001. In paragraph 2 of its first response to the motions to suspend, SBLD states that it will, at least initially, provide interexchange telecommunications services by resale of the services of an underlying carrier and that it "will utilize Feature Group D signaling of the underlying interexchange carrier whose services will be resold." The Commission could dispel any concerns MITG might have on this issue by directing SBLD to refrain from using Feature Group C absent subsequent Commission approval.

8. On May 7, 2001, SBLD submitted a substitute tariff sheet removing the following language which appears in Section 2.1.1, Original Sheet 35, "Unless otherwise indicated in this Tariff, Service is available on a statewide basis," and inserting in lieu thereof, "Unless otherwise indicated in this Tariff, Service is available where facilities permit throughout the geographic area served by Southwestern Bell Telephone Company." This change addresses and removes MITG's concern about geographic deaveraging.

9. The Staff, therefore, recommends that the Commission deny the Motion to Suspend. The two concerns raised by MITG in its filings, that SBLD should not use Feature Group C and that SBLD should not geographic deaverage, are adequately addressed as indicated in paragraphs 7 and 8 above.

WHEREFORE, the Staff recommends that the Commission deny the motions to suspend.

Respectfully submitted,

DANA K. JOYCE  
General Counsel



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Senior Counsel  
Missouri Bar No. 45722

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### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 10<sup>th</sup> day of May 2001.



**Service List for  
Case No. TA-99-47  
Revised: May 10, 2001 (lb)**

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